

REMARKS

In this response, independent Claims 1, 35, and 65 as well as dependent Claim 66 are amended, and Claims 2, 13, and 67 are cancelled without prejudice. (Claims 42 and 69 were cancelled in the March 14, 2006 Amendment.) Claims 16-34 and 46-64 (Group II) are also cancelled without prejudice in view of the finality of the restriction requirement, to advance prosecution. Claims 1, 3-12, 14-15, 35-41, 43-45, 65-66, 68, and 70-73 are now pending in the application after the amendments of this response.

Claims 1-15, 35-41, 43-45, 65-68, and 70-73 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 6,774,171 to Kassa et al. ("*Kassa*"). The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

The claim amendments are presented in specific response to the analysis presented in the Office Action issued June 13, 2006. Entry of this Amendment should address the issues raised by the Examiner and accordingly place the application in condition for allowance. Thus, Applicant respectfully submits that entry of this Amendment is appropriate pursuant to 37 C.F.R. § 1.116(b).

RESTRICTION OF CLAIMS 16-34 AND 65-73

In the Office Action, the Examiner indicated that a complete reply to the final rejection must include cancellations of non-elected claims or other appropriate action. Applicants have accordingly cancelled Claims 16-34 and 65-73, without prejudice.

REJECTION UNDER 35 U.S.C. § 103

Claims 1-15, 35-41, 43-45, 65-68, and 70-73 are rejected under 35 USC. § 103(a) as unpatentable over U.S. Patent 6,774,171 to Kassa et al. ("*Kassa*"). This rejection is respectfully traversed.

Independent Claims 1, 35, and 65 as well as dependent Claim 66 have been amended, and Claims 2, 13, and 67 have been cancelled without prejudice. Claim 1 has been amended to incorporate the provisions of Claims 2 and 13 as filed. Claims 2 and 13 have accordingly been cancelled without prejudice since their provisions are now recited in independent Claim 1. Independent Claims 35 and 65 have all been amended to provide that the elastomer is dynamically vulcanized as provided in Claim 67 as originally filed. Claim 67 has accordingly been cancelled without prejudice since its provisions are now recited in independent Claim 65. Basis for the amendments is in the originally-filed claims. Dependent Claim 66 has been amended to align with amendments in independent Claim 65.

Turning now to the cited reference of the Office Action, *Kassa* discusses polymeric blends of a polymer, a magnetic material, and an additive such as a tackifier or flexibility agent. The polymer is 5 to 95 weight percent of the blend and can include elastomers, thermoplastics, thermosets, or combinations thereof (column 2 lines 10-25). *Kassa* discusses non-blended elastomer polymer and elastomer/elastomer polymer blends at column 3 lines 5-33, and *Kassa* discusses elastomer/thermoplastic blends at column 3 lines 34-47. Elastomer (including liquid elastomer) polymer is discussed for blending at column 3 lines 5 to 20. In discussing "polymer sub-mixtures" (*Kassa*'s term at column 3 line 35 for blends of more than one polymer) of elastomer and another polymer at column 2 lines 34-47 however, *Kassa* does not appear to

reference use of liquid elastomers as done in column 3 lines 5-20 where the polymer appears to be non-blended elastomer.

The amended claims are distinguished from *Kassa* in that they require that magnetizable powder is dispersed in both the thermoplastic phase and in the elastomeric phase of the polymeric blend, a feature that *Kassa* does not articulate. In this regard, amended Claim 1 of the present invention is limited by the following aspects:

- (b) said thermoplastic polymer provides a first phase in said composition;
- (c) said elastomeric polymer provides a second phase in said composition;
- and
- (d) said magnetizable powder is dispersed in said first phase and in said second phase.

In the amended claims of the present invention, Claim 35 is limited by the following aspects:

- (a) a first phase comprising a thermoplastic polymeric material;
- (b) a second phase comprising dynamically vulcanized cured elastomeric polymeric material; and
- (c) magnetizable powder dispersed in said first phase and in said second phase.

In the amended claims of the present invention, Claim 65 is limited by the following aspects:

- (a) dispersing hard magnetic material in a blend of a thermoplastic material and elastomeric material, wherein said elastomeric material is in an uncured state or a partially cured state; and
- (b) dynamically vulcanizing said elastomeric material in the presence of said thermoplastic material and said hard magnetic material.

Kassa does not specify that magnetic material (in “sub-mixture” blends) is distributed both in the thermoplastic polymer and also in the elastomeric polymer of the polymer “sub-mixture” when the sub-mixture is made of thermoplastic polymer and elastomer. For at least this reason, Applicants therefore respectfully submit that *Kassa* does not establish a basis for prima facie obviousness in the amended independent claims or in the dependent claims of the present invention.

Further distinguishing *Kassa*, independent Claims 35 and 65 have been amended to limit cured elastomer to dynamically vulcanized elastomer. *Kassa* doesn’t teach dynamic vulcanization, where curing agent is added only after dispersion of the elastomeric phase into the thermoplastic phase so that particle sizes of elastomer can be appropriately controlled. Even if *Kassa* were to be extrapolated to suggest the formulation of liquid elastomer in a “submixture” of thermoplastic with magnetic material, the addition of curing agent (as suggested in *Kassa* at column 5 line 15 and ff) would effectively defeat the execution of dynamic vulcanization in curing the elastomer and thereby not anticipate the amended independent claims of the present invention.

Therefore, Applicants submit that *Kassa* does not establish a basis for prima facie obviousness in the amended independent claims or in the dependent claims of the present

invention. Applicants accordingly request that the respective rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Applicants submit that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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